



November 9, 2010

Federal Communications Commission
Office of the Secretary
Marlene H. Dortch
445 12th Street SW
Washington, DC 20554

Subject: **CC Docket 02-6, Request for Waiver**
Applicant Name: Covina-Valley Unified School District
Billed Entity Number: 143580
Form 471 Application Number: 695134
Form 486 Application Number: 758398
Funding Request Number(s): 1910129, 1910374, 1910523, 1910575, 1910800, 1910281

Dear Sir or Madam:

This letter is a Request for Waiver of the Service Start Date on the Form 486 Notification Letter for Covina-Valley Unified School District, in response to the Denial letters issued by USAC's Administrator's Decision on Appeal dated September 17, 2010.. The appeal to USAC was filed in response to a to a "Form 486 Notification Letter" where the Service Start Date on the Notification letter for all FRNs was adjusted from 07/01/2009 to 02/25/2010. The explanation states "120-DAY 486 DEADLINE."

Covina-Valley Unified School District is asking the FCC for a waiver of its rules based upon the following extenuating circumstances which made it difficult for the applicant to file its Form 486 by the associated deadline. The Director of Technology Services has been in charge of E-rate for several years. In addition to all of his responsibilities, the Director of Technology Services, he is the Director of a growing rapidly growing Department with more and more responsibilities, but due to the state budget crunch, without the resources to hire staff to adequately meet the growing needs of his department. Thus, all the new responsibilities fall on his shoulders. E-rate is not the primary or even secondary responsibility. For the last two years, he has been unable to hire anymore staff and has thus had to take on additional responsibilities himself.

In July of 2010, the district hired an E-rate consultant to do these responsibilities. The consultant then filed the Form 486 for Funding Year 2009, and it was late. Due to the hardship the district experienced during Funding Year 2009 by not having enough resources to adequately manage the E-rate process. This is a consequence of state budget cuts out of the District's control, we are asking for the FCC to offer relief to the district and allow the service start date go back to July 1, 2009.

In the ***Alaska Gateway and Alcona County Library decisions***, the FCC has found that "complete rejection of the applications is not warranted, given that the applicants missed a USAC procedural deadline and did not violate a Commission Rule..."¹ More recently in ***Children of Peace School*** decision, the FCC further stated "While

¹ See Request for Review of the Decision of the Universal Service Administrator by Alaska Gateway School District, Tok, AK, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-412028, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 10182 (Wireline Comp. Bur. 2006) (Alaska Gateway School District) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants); See Requests for Waivers of the

procedural deadlines are necessary to maintain the efficient administration of the application process, as the Commission noted in *Bishop Perry*, a departure from required filing deadlines may be warranted upon careful review of the petitioner's case and when doing so will serve the public interest. Generally these applicants claim that staff mistakes or circumstances beyond their control resulted in missing the FCC Form 486 deadline."²

In the ***Alaska Gateway*** order, the FCC stated that a "waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."³ Covina-Valley Unified School District believes that the above explanation illustrates special circumstances and thus should warrant a waiver of the 120 day rule. The District respectfully requests that USAC change the Service Start Date to 07/01/2009 because of extenuating circumstances specific to the District.

Reduction of funding in this case would inflict undue hardship on the District. The District relies upon Universal Service funds for support of essential Broadband connectivity and communications services. Without these funds, the District will be forced to use its General Funds to pay for these services, funds which could be used for teachers' salaries and other critical education functions. As noted in ***Children of Peace School***, "...granting these appeals should have minimal effect on the Universal Service Fund because the monies needed to fund these requests, should they all be funded, have already been collected and held in reserve."⁴

Respectfully Submitted,



Linda Smith
Director E-rate Services
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Enclosure: *Covina-Valley CSM LOA.pd*

Decisions of the Universal Service Administrator by Alcona County Library, Harrisville, Michigan, et al., Schools and Libraries Universal Service Support Mechanism, File Nos. SLD-425479, et al., CC Docket No. 02-6, Order, 23 FCC Rcd 15500 (Wireline Comp. Bur. 2008) (*Alcona County Library*) (finding good cause to waive USAC's deadline for FCC Form 486 for several applicants).

² *Children of Peace School* para. 7; *Request for Review of the Decision of the Universal Service Administrator by Bishop Perry Middle School, et al., Schools and Libraries Universal Service Support Mechanism*, File Nos. SLD-487170, et al., CC Docket No. 02-6, Order, 21 FCC Rcd 5316, para. 9 (2006) (*Bishop Perry*).

³ *Alaska Gateway Order* para. 5, *Northeast Cellular*, 897, F.3d at 1166.

⁴ *Children of Peace School* para. 7; We estimate that the appeals granted in this Order involve applications for approximately \$2.4 million in funding. We note that USAC has already reserved sufficient funds to address outstanding appeals. See, e.g., Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2010 (Apr. 30, 2010). Thus, we determine that the action we take today should have a minimal impact on the universal service fund as a whole.